

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Justice Muhammad Ali Mazhar
Justice Musarrat Hilali
Justice Irfan Saadat Khan

Civil Petitions for Leave to Appeal No.4818 to 4842/2024
[Against the consolidated judgment dated 29.07.2024 passed by the Federal Service Tribunal, Camp Office, Peshawar in Appeals No.779 to 803(P)CS/2019]

Chairman Water and Power Development Authority WAPDA Lahore (in all cases)
...Petitioner(s)

Versus

Ijaz Ali Gul and others	(in CPLA 4818/2024)
Ehtisham Gul and others	(in CPLA 4819/2024)
Hayat Khan and others	(in CPLA 4820/2024)
Khaista Baz and others	(in CPLA 4821/2024)
Sami Ullah and others	(in CPLA 4822/2024)
Adnan Tahir and others	(in CPLA 4823/2024)
Habib Ullah and others	(in CPLA 4824/2024)
Yasir Bakhtiar and others	(in CPLA 4825/2024)
Saif ur Rehman and others	(in CPLA 4826/2024)
Fayyaz and others	(in CPLA 4827/2024)
Zia Ullah and others	(in CPLA 4828/2024)
Zia ur Rehman and others	(in CPLA 4829/2024)
Rehan Ullah and others	(in CPLA 4830/2024)
Shaheen Shah and others	(in CPLA 4831/2024)
Miraj Gul and others	(in CPLA 4832/2024)
Din Muhammad and others	(in CPLA 4833/2024)
Atta Ullah and others	(in CPLA 4834/2024)
Kh.Muhammad Wafiq & others	(in CPLA 4835/2024)
Hashmat Ali and others	(in CPLA 4836/2024)
Qeemat Gul and others	(in CPLA 4837/2024)
Shahid Kamal and others	(in CPLA 4838/2024)
Said Jehan and others	(in CPLA 4839/2024)
Akhtar Ali and others	(in CPLA 4840/2024)
Kifayat Ullah and others	(in CPLA 4841/2024)
Tahir Ullah and others	(in CPLA 4842/2024)
	...Respondent(s)

For the Petitioner(s) : Syed Hassan Ali Raza, ASC
Respondent(s) No.1 : In person (in CPLAs 4818, 4826 & 4831/2024)

Date of Hearing : 2nd of June, 2026

Judgment

Muhammad Ali Mazhar, J. These Civil Petitions for leave to appeal are directed against the consolidated judgment dated 29.07.2024 passed by the Federal Service Tribunal ('**Tribunal**') in Appeals No.779 to 803(P)CS/2019.

2. According to the narrative put forward the petitioner was maintaining a combined seniority list of all Assistant Station Attendants (**ASA**) in WAPDA Hydel North Region, Warsak Peshawar. After sometime, the department resorted to a separate seniority list of ASAs working in Operations and Maintenance Sections in terms of new Rules promulgated on 30.09.2018. The respondents pleaded before the Tribunal that the separation of seniority list of ASAs working under the Operations and Maintenance Sections has affected the promotion prospects whereby few juniors in the combined seniority were already promoted whereas they were waiting to be promoted to the next higher grade. The learned Tribunal while allowing appeals held that the implementation of Pakistan WAPDA Hydel Generation Staff Service Rules, 2018 (**2018 Rules**) should be implemented prospectively for all those who have joined the service after promulgation of these Rules and also issued directions that the combined seniority list for all those who were appointed and were serving prior to promulgation of 2018 Rules were restored and their services should be governed by the previous Rules without disturbing the promotion of private respondents Nos.4 to 14; the appellant should be considered for promotion with effect from the date when his juniors were promoted with all back benefits; the 2018 Rules should be applicable prospectively and upon all those employees who have joined after the promulgation of said Rules; further modalities of place of

posting and related issues should be looked into and resolved by the respondent-department and finally judgment passed in leading appeal was directed to be applied mutatis-mutandis to Appeals No.780 to 803(P)CS/2019 with no order as to costs.

3. The learned counsel for the petitioner argued that 2018 Rules were issued vide Office Memo dated 30.08.2018 and implemented to facilitate the working of Hydel Generation being a specialized activity. It was further contended that the ASAs working under Operations and Maintenance Sections have their independent line of progression. He further averred that new Service Rules were approved by the competent authority and it was not possible to do away with the separate seniority list. The learned counsel though supported the enactment of 2018 Rules, could not satisfy or justify as to how the said rules could be implemented with retrospective effect to upset the settled seniority of the respondents.

4. Quite the reverse, one of the respondents appearing in person addressed us that the services of the respondents were being governed by the previous Service Rules whereby a combined seniority list of all the ASAs was maintained but on promulgation of 2018 Rules, the seniority was disturbed and few juniors were already promoted. Furthermore, the seniority of ASAs under the maintenance Section has been separated to include the mechanical, electrical, air-conditioning and instrument Sections, which has further complicated the situation. It was further submitted by him that 2018 Rules could not apply retrospectively.

5. Heard the arguments. The core issue in this case is whether 2018 Rules enacted and promulgated on 30.08.2018 will apply with retrospective effect or not? Though in these

rules, it is mentioned that the Rules shall come into force at once. The learned Tribunal has held that said rules cannot be enforced through retrospective effect and in the climax, restored the seniority list existing prior to the promulgation of 2018 Rules, however, the promotion accorded to the private respondents No.4 to 14 was protected.

6. The law can be categorized as either substantive or procedural. Substantive law defines rights, while procedural law deals primarily with the process or remedies involved. Procedure is merely a machinery, a means to an end, and its object is to facilitate, not to obstruct the administration of justice. The foundational rule of interpretation is that the laws and rules are presumed to operate prospectively rather than retrospectively unless unambiguously specified. This presupposition or assumption is meant to protect the settled rights as a safety device. This germinal code of belief is also engrained in the ancient legal maxim "nova constitutio futuris formam imponere debet non praeteritis", which decodes that "A new law ought to regulate future things, not past things." In fact this maxim reminds us the doctrine of prospective application of laws, meaning thereby, that new statutes or rules or regulations should look ahead but not towards the back. The said fortification takes for granted to guarantee justice, equality and even-handedness to nip in the bud from retroactive penalization or alteration or disrupting and intruding the past situation, status or vested rights.

7. The seniority of employees cannot be affected or disturbed by the retrospective application of newly enacted rules. The seniority and eligibility for promotion is equivalent and practically the same as substantive rights and cannot be regarded merely a procedural matter. Any new rules or even amendments in rules detrimental to the vested or accrued

rights including the attainment of seniority shall operate prospectively and cannot be expended or brought into play to mess up with already settled and undisputed seniority of employees which was attained in the previous rules. Upsetting or reversing settled seniority by antedating application of rules also infringes legitimate expectation and turns into administrative action arbitrary, discriminating and prejudicial to the employees who became the victim of a game of snakes and ladders or sudden reversals of fortune which is in fact used to define the "up and down" nature of the game.

8. When new rules are enacted for upsetting the previous seniority, it not only causes severe disquiet and disappointment but also amounts to undermine years of devotion and hard work of the affected employees who often set the sense of disrespect when newly promulgated seniority rules interrupt and unsettle their established status in the ranking of seniority and primacy is accorded to the juniors. It is clear beyond any shadow of doubt that the seniority is a valuable asset for an employee which plays a crucial part in building professional weightage, pathway for progression and job security which cannot be disturbed out of the blue under the garb of newly enacted rules with retrospective effect.

9. In the case of Collector of Central Excise and Land Customs v. Azizuddin Industries Ltd. (PLD 1970 SC 439), it was held that the rights vested under a previous notification cannot be retrospectively destroyed by a subsequent executive order. While in the case of Adnan Afzal v. Capt. Sher Afzal (PLD 1969 SC 187), this Court distinguished substantive and procedural laws and held that substantive laws must obey prospectively and procedural changes can apply retrospectively. On level pegging, it was held by one of us in the case of Muslim Commercial Bank Limited versus

Punjab Labour Appellate Tribunal through its Chairman, Lahore **(2025 SCMR 303 = 2024 SCP 387)** that laws affecting, curtailing or prejudicing vested rights shall be applied prospectively and there is a well-settled principle against interference with vested rights by subsequent legislation unless the legislation has been made retrospective expressly or by necessary implication. What's more, the pith and substance of additional note contributed by one of us with regard to the prospectivity and retrospectivity of laws in the case of Raja Amer Khan v. Federation of Pakistan **(2024 SCP 4 = PLJ 2024 SC 114)**, it was opined while quoting "Principles of Statutory Interpretation" by Justice G.P. Singh's (7th ed.), at page 372 to 373, wherein he quoted a statement of the House of Lords in the case of L'office Cherifien des Phosphates v. Yamashita Shinnihon Steamship Co. Ltd that the question of fairness will have to be answered by taking into account various factors, viz., value of the rights which the statute affects; extent to which that value is diminished or extinguished by the suggested retrospective effect of the statute; unfairness of adversely affecting the rights; clarity of the language used by the Parliament and the circumstances in which the legislation was created. All these factors must be weighed together to provide a direct answer to the question of whether the consequences of reading the statute with the suggested degree of retrospectivity is so unfair that the words used by the Parliament cannot have been intended to mean what they might appear to say. The word "retrospective", or an antedated, *ex post facto* or retroactive law, denotes that the law has been made effective since before the date of its passing. Bennion on Statutory Interpretation (7th ed.), at page 181 states with regard to the retrospective effect of law that the "principle is sometimes expressed in the maxim *lex prospicit non respicit* (law looks forward not back). As Willes J said in *Phillips v. Eyre* retrospective legislation is "contrary to

the general principle that legislation by which the conduct of mankind is to be regulated ought, when introduced for the first time, to deal with future acts, and ought not to change the character of past transactions carried on upon the faith of the then existing law.” Whereas in Crawford’s Statutory Construction, Chapter XXV (at pages 562-566 & 622), which is germane to Prospective and Retrospective Operation, it is stated, in short, that retroactive legislation is looked upon with disfavour, as a general rule, and properly so because of its tendency to be unjust and oppressive. There is a presumption that the legislature intended its enactments to be effective only *in futuro*. This is true because of the basic presumption that the legislature does not intend to enact legislation which operates oppressively and unreasonably. If perchance any reasonable doubt exists, it should be resolved in favour of prospective operation. In other words, before a law will be construed as retrospective, its language must imperatively and clearly require such construction. In the case of *People v Dillard* (298 N.Y.S. 296, 302, 252 Ap. Div.125) the Court held that “it is chiefly where the enactment would prejudicially affect vested rights, or the legal character of past transactions that the rule in question applies. Every statute, it has been said, which takes away or impairs vested rights acquired under existing laws, or creates a new obligation, or imposes a new duty, or attaches a new disability in respect of transactions or considerations already past, must be presumed, out of respect to the Legislature, to be intended not to have a retrospective operation.” Indeed new laws are interpreted as functional and effective in the matters that arise after the enactment. Every statute which takes hold of or prejudices vested rights assimilated under existing laws, or contrives a new obligation or enforces a new duty, or characterises a new disability in respect of transactions already past and closed is presumed to have no

retrospective effect. In other words, a statute is not to be applied retrospectively in the absence of express enactment or necessary intendment, especially where the statute is to affect vested rights, past and closed transactions, or facts or events that have already occurred and, instead of promoting or advancing the cause of justice, is creating consequential impediments or causing any disadvantage to any of the concerned parties.

10. The jurisprudence laid down by the Supreme Court of India seems to be at par with the jurisprudence evolved by this Court. The case in point is T.R. Kapur v. State of Haryana **(1986 Supp. SCC 584= 1987 AIR 415 = 1986 (3) SCR 696)**), where the Court held that the state cannot retrospectively take away or extinguish a vested or accrued right (such as an individual's seniority or promotion eligibility) that they already legally acquired under the previous rules. Similarly in the case of K. Narayanan v. State of Karnataka **(1993 INSC 282)**, it was held that while rules can be made retrospective, they must pass the test of fairness and cannot operate to the detriment of existing employees. The Court famously observed that retrospective rules cannot be used to unilaterally adjust the date of entry into service to alter the existing seniority list to the disadvantage of validly appointed employees. Whereas in the case of State of Uttaranchal v. Dinesh Kumar Sharma **(2006 INSC 944)**, it was held that the seniority has to be decided on the basis of the service rules in force on the date of the actual appointment. It was further held that the government cannot grant retrospective seniority or promotion from a backdated period when the vacancy arose if the employee was not even born in the cadre if it hurts existing cadre members. While in the case of Uttaranchal Forest Rangers' Association v. State of U.P. **(2006 INSC 654)**, it was held that a seniority list that has

remained settled for a considerable period cannot be disturbed by the retrospective application of modified executive instructions or amended rules. Seniority cannot be backdated arbitrarily to favour one class of workers (e.g., promotional vs. direct recruits) over another.

11. We have no hesitation in our minds to hold that the learned Tribunal rightly held that 2018 Rules shall be applied with prospectivity. Neither can 2018 Rules put into motion to disturb or upset the settled seniority nor can it be applied retrospectively to shakeup the seniority of employees enjoying their seniority prior to the promulgation of new Rules. The learned Tribunal after considering the relevant facts allowed the appeal of the respondents which does not require any interference. These civil petitions are dismissed and leave is refused.

Judge

Judge

Judge

Islamabad, the
2nd of June, 2026
Khalid
Approved for Reporting